

The Senate Health and Human Services Committee offered the following substitute to HB 492:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, acupuncture, physician's assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists, and orthotics and prosthetics practice, so as to provide for legislative findings; to increase the membership of the Composite State Board of Medical Examiners; to provide for the qualifications of such members; to provide for initial and subsequent terms of office of the new members; to change the name of the Composite State Board of Medical Examiners to the Georgia Composite Medical Board; to amend various titles of the Official Code of Georgia Annotated so as to change provisions for conformity purposes; to change certain provisions relating to the licensing of cosmetic laser practitioners by the board; to revise certain definitions; to require that each patient be examined prior to any cosmetic laser service being performed; to require that each facility offering cosmetic laser services have a supervisor; to provide certain qualifications and responsibilities for supervisors; to require that certain information regarding cosmetic laser practitioners, supervisors, and consulting physicians be disclosed by the facilities; to provide for a licensed physician to be a member of the advisory board; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

The General Assembly finds and declares that access to high quality health care for Georgia citizens is a top priority; that the practice of medicine is a privilege granted by the people acting through their elected representatives and is not a natural right of individuals; that it is in the interests of public health, safety, and welfare to protect the public from the unprofessional, improper, incompetent, unlawful, fraudulent, and/or deceptive practice of medicine; that it is necessary to provide laws and regulations to govern the granting and subsequent use of the privilege to practice medicine; and that the primary responsibility of

1 the Composite State Board of Medical Examiners is to protect the public. Further, the
2 General Assembly finds that expanded representation of persons on the Composite State
3 Board of Medical Examiners who are not engaged in the practice of medicine or in the
4 delivery of health care is in accord with the recommendations of the Federation of State
5 Medical Boards, and that such expanded representation is intended to foster the public
6 interest in improved health care quality in this state.

7 **SECTION 1-2.**

8 Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians,
9 acupuncture, physician's assistants, cancer and glaucoma treatment, respiratory care, clinical
10 perfusionists, and orthotics and prosthetics practice, is amended by revising Code Section
11 43-34-21, relating to the creation of the Composite State Board of Medical Examiners, as
12 follows:

13 "43-34-21.

14 (a) A board is established to be known as the ~~Composite State Board of Medical~~
15 ~~Examiners~~ Georgia Composite Medical Board to be made up of 15 members. All members
16 of the board shall be citizens of the United States and residents of this state. All
17 appointments to the board shall be made by the Governor and confirmed by the Senate.

18 (b) ~~Twelve~~ Thirteen of the members shall be practicing physicians of integrity and ability
19 and shall be duly licensed to practice in this state. ~~Ten of the 12~~ Eleven of the 13 physician
20 members shall be graduates of reputable medical schools conferring the M.D. degree; the
21 other two physician members shall be graduates of reputable osteopathic schools conferring
22 the D.O. degree. All of the physician members shall have been engaged in the active
23 practice of their profession within this state for a period of at least five years. Any vacancy
24 occurring in a post held by a holder of the D.O. degree shall be filled by a D.O. from the
25 state at large.

26 (c) The ~~thirteenth member~~ fourteenth and fifteenth members of the board shall be
27 appointed from the state at large and shall have no connection whatsoever with the practice
28 of medicine or the provision of health care services. Such public members of the board
29 shall be persons of recognized ability and integrity, but shall not be licensed physicians or
30 other health care providers, shall have no substantial personal or financial interest in the
31 practice of medicine, the provision of other health care services, or affiliation with any
32 organization regulated by the board, and shall not be a spouse, parent, or child of any
33 individual involved in the practice of medicine, the provision of health care services, or
34 affiliation with any organization regulated by the board.

35 (d) The board shall perform such duties and possess and exercise such powers relative to
36 the protection of the public health and the control of regulation of the practice of medicine

1 and osteopathy as this chapter prescribes and confers upon it and shall have the power to
2 carry out investigations, either through the executive director or independently, ~~provided,~~
3 ~~however, that the member of the board who is not a practicing physician may vote only on~~
4 ~~matters relating to administration and policy which do not directly relate to practical and~~
5 ~~scientific examination of physicians in this state.~~

6 (e)(1) The board shall appoint a Physician's Assistants Advisory Committee composed
7 of four physicians, at least two of whom shall be members of the board, and four licensed
8 physician's assistants, who shall each serve for terms of office of two years and until their
9 successors are appointed and qualified. The committee shall review matters to come
10 before the board which relate to physician's assistants, including but not limited to
11 applicants for physician's assistant licensure and relicensure and education requirements
12 therefor, and proposed board regulations concerning physician's assistants. The
13 committee shall periodically make recommendations to the board regarding matters
14 reviewed. Each member of the advisory committee shall be entitled to the same expense
15 allowances, mileage allowances, and reimbursement as members of the board as provided
16 for in subsection (f) of Code Section 43-1-2.

17 (2) The committee shall appoint a physician's assistant in an advisory capacity to the
18 board. The advisory person shall serve at the pleasure of the committee as an ex officio
19 adviser to the board in all matters relating to physician's assistants and shall share in the
20 privileges and benefits of the board without a vote.

21 (f) The board shall examine applicants to test their qualifications to practice medicine.

22 (g) When funds are specifically appropriated for such purpose, the board shall publish an
23 informational booklet on breast cancer and the treatment of breast cancer. The booklet
24 shall contain a summary of the latest information on breast cancer and, in brief form, shall
25 discuss the generally accepted and widely prevailing medical and surgical treatments for
26 breast cancer. The booklet shall include a valid assessment of the relative risks and
27 benefits of the accepted and widely prevailing methods of treatment. A copy of the booklet
28 shall be made available by the board to every appropriate physician in the state. A letter
29 by the board shall accompany this booklet stating that the board urges the physician to
30 distribute a copy of the booklet to each and every patient whose suspected disease, disease,
31 or course of treatment is covered by the material in the booklet. Copies shall also be
32 available to any person upon request at a fee prescribed by the executive director sufficient
33 to cover the cost of printing and distribution. The booklet shall be updated and
34 redistributed at such times as the board shall deem necessary.

35 (h) The board shall have the authority to contract with medical associations or other
36 professionally qualified organizations to conduct impaired physicians programs."

SECTION 1-3.

Said article is further amended by revising Code Section 43-34-22, relating to the terms of office of members of the Composite State Board of Medical Examiners, as follows:

"43-34-22.

(a) The terms of office of members of the Composite State Board of Medical Examiners, now known as the Georgia Composite Medical Board, in office on June 30, 1999, shall expire July 1, 1999, except that the Governor by executive order may provide that such terms expire after July 1, 1999, but no later than July 1, 2000, and upon the appointment and qualification of their respective successors. Those successors shall be appointed by the Governor for terms of office beginning on the later of July 1, 1999, or the date immediately following the expiration of the terms of office of those members in office on June 30, 1999, with four of such successors to have initial terms of one year, four of such successors to have initial terms of two years, and five of such successors to have initial terms of three years. The Governor shall specify the initial terms of office for each of those successors at the time of their appointment. Upon the expiration of such initial terms, successors to members of the board whose terms of office expire shall serve for terms of four years each.

(b) Members of the board shall serve for the terms specified and until their respective successors are appointed and qualified. All reappointments and new appointments shall be made so that the various geographic regions of the state shall be represented. Any vacancy that may occur in the board as a result of death, resignation, removal from the state, or other cause shall be filled for the unexpired term in the same manner as regular appointments are made.

(c) The terms of office of the new nonphysician member and the additional new physician member, as of July 1, 2008, of the board appointed pursuant to subsections (b) and (c) of Code Section 43-34-21 shall be made in accordance with this Code section. Such new members shall be appointed by the Governor to serve as members of the board for terms of office beginning on July 1, 2008, and the physician member shall be appointed for an initial term of one year and the additional new nonphysician member shall be appointed for an initial term of two years. Upon the expiration of such initial terms, successors to such members of the board whose terms of office expire shall serve for terms of four years each."

SECTION 1-4.

Said article is further amended by revising Code Section 43-34-29, relating to reciprocity of physicians' licenses, as follows:

"43-34-29.

The board may grant a license without examination to licensees of boards of other states

1 requiring equal or higher qualifications, upon the same basis as such states reciprocate with
2 this state, all upon the following terms and conditions:

3 (1) If the date of the license from the board of such other state is on or before January 1,
4 1967, no proof of interning in an approved hospital need be submitted to obtain a license
5 from the board giving the applicant absolute authority to practice medicine in this state;

6 (2) The applicant shall prove to the satisfaction of the board that the applicant has
7 graduated from a medical or osteopathic college approved by the board on the date of
8 application, for the purposes of this chapter, provided that the applicant shall not be
9 granted a license by reciprocity if the date of such applicant's graduation from such
10 medical or osteopathic college shall have occurred prior to July 1, 1963, unless such
11 medical or osteopathic college was approved for the purposes of this chapter by the
12 Composite State Board of Medical Examiners, now known as the Georgia Composite
13 Medical Board, or the State Board of Osteopathic Examiners as of the date of such
14 graduation; and

15 (3) If the date of the license from the board of such other state is after April 18, 1967, the
16 applicant shall submit proof that he or she has had the same training as is required for
17 applicants for examination in paragraph (2) of subsection (a) of Code Section 43-34-27,
18 in which event the board shall grant the applicant a license from the board giving the
19 applicant absolute authority to practice medicine in this state, provided that if the date of
20 completion of such internship program occurred prior to July 1, 1963, the board shall not
21 grant such license by reciprocity, except as allowed pursuant to the final proviso of this
22 paragraph, unless the internship program was approved by the board as of the date of
23 completion of such internship program by the applicant; and provided, further, that the
24 board may, in its discretion, waive the requirements of this paragraph after determining
25 that an applicant licensed to practice medicine in another state which does not require an
26 internship or residency has been actively engaged in the practice of medicine in such
27 other state for at least two years."

28 SECTION 1-5.

29 Chapter 11 of Title 31 of the Official Code of Georgia Annotated, relating to emergency
30 medical services, is amended by revising paragraphs (5) and (6) of Code Section 31-11-2,
31 relating to definitions, as follows:

32 "(5) 'Cardiac technician' means a person who, having been trained and certified as an
33 emergency medical technician and having completed additional training in advanced
34 cardiac life support techniques in a training course approved by the department, is so
35 certified by the Composite State Board of Medical Examiners, now known as the Georgia
36 Composite Medical Board, prior to January 1, 2002, or the Department of Human

Resources on and after January 1, 2002.

(6) 'Composite board' means the ~~Composite State Board of Medical Examiners Georgia~~
Composite Medical Board."

SECTION 1-6.

The following Code sections of the Official Code of Georgia Annotated are amended by striking "Composite State Board of Medical Examiners" or "Composite State Board of Medical Examiners of Georgia" wherever such terms occur and inserting in its place "Georgia Composite Medical Board":

(1) Code Section 20-3-476, relating to authorization and administration of loan program for attendance at Colleges of Osteopathic Medicine;

(2) Code Section 20-3-512, relating to powers of the State Medical Education Board as to medical student loans and scholarships;

(3) Code Section 20-3-513, relating to determination of amount of medical student loans and scholarships;

(4) Code Section 31-9-6.1, relating to the disclosure of information to persons undergoing certain surgical or diagnostic procedures;

(5) Code Section 31-11-81, relating to definitions relative to emergency services;

(6) Code Section 31-34-4, relating to loan applicant qualifications;

(7) Code Section 31-38-2, relating to exemptions from applicability of chapter on tanning facilities;

(8) Code Section 33-3-27, relating to reports of awards under medical malpractice insurance policies;

(9) Code Section 33-20B-2, relating to definitions relative to essential rural health care provider access;

(10) Code Section 34-9-1, relating to definitions relative to workers' compensation;

(11) Code Section 43-5-13, relating to exceptions to operation of chapter;

(12) Code Section 43-34-20, relating to definitions relative to physicians;

(13) Code Section 43-34-24.1, relating to the board as an independent agency;

(14) Code Section 43-34-26.1, relating to delegation of authority to nurse or physician's assistant;

(15) Code Section 43-34-62, relating to definitions relative to acupuncture;

(16) Code Section 43-34-102, relating to definitions relative to physician's assistants;

(17) Code Section 43-34-122, relating to definitions relative to the use of marijuana for treatment of cancer and glaucoma;

(18) Code Section 43-34-123, relating to the Controlled Substances Therapeutic Research Program;

- (19) Code Section 43-34-142, relating to definitions relative to respiratory care;
- (20) Code Section 43-34-171, relating to definitions relative to clinical perfusionist licensure;
- (21) Code Section 43-34A-2, relating to definitions relative to the "Patient Right to Know Act of 2001";
- (22) Code Section 43-34A-3, relating to physician profiles and the dissemination of such profiles to the public;
- (23) Code Section 43-34A-6, relating to a patient's right to file a grievance with the state board; and
- (24) Code Section 43-35-3, relating to definitions regarding the practice of podiatry."

PART II

SECTION 2-1.

Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, acupuncture, physician's assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists, and orthotics and prosthetics practice, is amended by revising paragraphs (1) and (5) of Code Section 43-34-242, relating to definitions relative to cosmetic laser services, as follows:

"(1) 'Board' means the ~~Composite State Board of Medical Examiners~~ Georgia Composite Medical Board created by Code Section 43-34-21."

"(5) 'Cosmetic laser services' means nonablative elective cosmetic light based skin treatment, photo rejuvenation, or hair removal using lasers and pulsed light devices approved by the United States Food and Drug Administration for noninvasive procedures. Such services and the provision thereof shall not be considered to be the practice of medicine."

SECTION 2-2.

Said chapter is further amended by revising Code Section 43-34-244, relating to two levels of license and applications, as follows:

"43-34-244.

(a) There shall be two levels of a license for a cosmetic laser practitioner: assistant laser practitioner and senior laser practitioner.

(b) Any person desiring to obtain a license as a cosmetic laser practitioner under the terms of this article shall make application to the board as follows:

(1) An applicant for an 'assistant laser practitioner' license shall present proof that he or she:

(A) Holds a current valid license or certificate of registration as a physician's assistant,

nurse, esthetician, or master cosmetologist, or has previously held a license or certificate of registration as a medical practitioner; and

(B) Has received at least three laser certificates from attending laser/intense pulsed light (IPL) courses as approved by the board, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

If, after review of the application, it is determined that the applicant is at least 21 years of age; has met the minimum educational requirements; is of good moral character; and is possessed of the requisite skill to perform properly cosmetic laser services, a license shall be issued to the applicant entitling the applicant to practice the occupation of cosmetic laser practitioner at the assistant laser practitioner level under the direct supervision of a senior laser practitioner.

(2) An applicant for a 'senior laser practitioner' license shall present proof that he or she:

(A) Holds a current valid license or certificate of registration as a physician's assistant or nurse or has previously held a license or certificate of registration as a medical practitioner;

(B) Has at least three years of clinical or technological medical experience, or both;

(C) Has been or was licensed or nationally board certified as a medical practitioner for at least three years; and

(D) Has received at least two laser certificates from attending laser/intense pulsed light (IPL) continuing medical education courses as approved by the board, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

If, after review of the application, it is determined that the applicant is at least 21 years of age; has met the minimum educational and clinical training requirements to perform cosmetic laser services with indirect supervision; is of good moral character; and is possessed of the requisite skill to perform properly these services, a license shall be issued to the applicant entitling the applicant to practice the occupation of cosmetic laser practitioner at the senior laser practitioner level pursuant to the protocols of a consulting physician.

~~(c) The board shall be authorized to waive any education requirements under this Code section in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate with respect to any applicant who has practiced as a cosmetic laser practitioner prior to July 1, 2007.~~

(c)(1) Any person desiring to obtain a license as an 'assistant laser practitioner' who does not meet the requirements of paragraph (1) of subsection (b) of this Code section shall also be eligible for a license as an 'assistant laser practitioner' if he or she makes application to the board within six months of the effective date of this article and presents

proof that he or she:

(A) Prior to the effective date of this article, obtained a minimum of at least 2,000 hours of experience in administering cosmetic laser service; and

(B) Has received at least three laser certificates from attending laser/intense pulsed light (IPL) courses, directly taught by a licensed physician or certified continuing medical education or continuing education educator.

(2) Any person licensed pursuant to paragraph (1) of this subsection shall not perform any cosmetic laser services unless under the direct supervision of a physician licensed under this chapter who is trained in laser modalities.

(d) Should an applicant have a current cosmetic laser practitioner license or certificate of registration in force from another state, country, territory of the United States, or the District of Columbia, where similar reciprocity is extended to this state and licensure requirements are substantially equal to those in this state, and have paid a fee and have submitted an application, the applicant may be issued a license at the appropriate level entitling him or her to practice the occupation of a cosmetic laser practitioner at that level, unless the board, in its discretion, sees fit to require a written or a practical examination subject to the terms and provisions of this article. ~~The board shall be authorized to waive any education or experience requirements applicable to any person who holds a current license or certificate to practice as a cosmetic laser practitioner outside of this state and who desires to obtain a license at a level authorized under this Code section to practice as a cosmetic laser practitioner in this state in cases of hardship, disability, or illness or under such other circumstances as the board deems appropriate."~~

SECTION 2-3.

Said chapter is further amended by revising Code Section 43-34-248, relating to agreement with consulting physician, as follows:

"43-34-248.

(a) Any facility providing cosmetic laser services shall have an agreement with a consulting physician who shall:

(1) Be trained in laser modalities;

(2) Establish proper protocols for the cosmetic laser services provided at the facility and file such protocols with the board; ~~and~~

(3) Examine each patient prior to any cosmetic laser service being performed; and

~~(3)~~(4) Be available for emergency consultation with the cosmetic laser practitioner or anyone employed by the facility.

(b) Any facility providing cosmetic laser services shall have a supervisor present at the facility at all times. The supervisor shall supervise the performance of all cosmetic laser

services performed by a person other than the consulting physician. The supervisor shall be a physician licensed under this chapter who is trained in laser modalities or a senior laser practitioner.

(c)(1) Any facility providing cosmetic laser services shall post a sign listing the consulting physician's name, emergency contact number, his or her board certification and specialty, and the address of his or her principal place of practice, and indicating whether he or she is presently on site at the facility.

(2) If the consulting physician is not on site for any period of time during which the facility is open, the facility shall post a sign indicating who is presently acting as the supervisor for the facility and that person's name, emergency contact number, his or her degrees and qualifications, and the type of cosmetic laser practitioner license held."

SECTION 2-4.

Said chapter is further amended by revising Code Section 43-34-249, relating to informed consent, as follows:

"43-34-249.

(a) Prior to receiving cosmetic laser services from a cosmetic laser practitioner, a person must consent in writing to such services and shall be informed in writing of the general terms of the following:

(1) The nature and purpose of such proposed procedure;

(2) Any material risks generally recognized and associated with the cosmetic laser service to be performed which, if disclosed to a reasonably prudent person in the customer's position, could reasonably be expected to cause such prudent person to decline such proposed cosmetic laser services on the basis of the material risk of injury that could result from such proposed services;

(3) The name of, the degrees and qualifications held by, and type of license licenses obtained by the individual who will be performing the cosmetic laser service ~~has obtained, the supervisor, and the consulting physician; and~~

(4) The steps to be followed after the cosmetic laser service is performed in the event of any complications; and

(5) The emergency contact information for the consulting physician and the address of his or her principal place of practice.

(a.1) After receiving each cosmetic laser service, a person shall be informed in writing of the information required by paragraphs (4) and (5) of subsection (a) of this Code section.

(b) It shall be the responsibility of the cosmetic laser practitioner to ensure that the information required by ~~subsection (a)~~ subsections (a) and (a.1) of this Code section is disclosed and that the consent provided for in this Code section is obtained.

(c) Where the consumer is under 18 years of age, the consent of the consumer's parent or legal guardian shall be required.

(d) The board shall be required to adopt and have the authority to promulgate rules and regulations governing and establishing the standards necessary to implement this Code section specifically including but not limited to the disciplining of a cosmetic laser practitioner who fails to comply with this Code section.

(e) Nothing in this Code section shall prohibit the information provided for in this Code section from being disclosed through the use of video tapes, audio tapes, pamphlets, booklets, or other means of communication or through conversations with the cosmetic laser practitioner; provided, however, that such information is also provided in writing and attached to the consent form which the consumer signs."

SECTION 2-5.

Said chapter is further amended by revising Code Section 43-34-250, relating to the advisory committee, as follows:

"43-34-250.

The board shall appoint an advisory committee. The advisory committee shall be representative of a cross section of the cultural backgrounds, to the extent practical, of the licensed cosmetic laser practitioners licensed under this article and such members as the board in its discretion may determine. The advisory committee shall include at least one person licensed to practice medicine under this chapter. Members shall receive no compensation for service on the committee. The committee shall have such advisory duties and responsibilities as the board may determine, including but not limited to consulting with the board on the issuance, denial, suspension, and revocation of licenses and the promulgation of rules and regulations under this article. The initial members of the advisory committee may include persons eligible for licensing under this article. Subsequent advisory committee members must be licensed pursuant to this article."

PART III

SECTION 3-1.

(a) Part 2 of this Act shall become effective only if and when the "Georgia Cosmetic Laser Services Act," approved May 29, 2007 (Ga. L. 2007, p. 626), becomes effective as provided in Section 2 therein.

(b) The remaining parts of this Act shall become effective on July 1, 2008.

SECTION 3-2.

All laws and parts of laws in conflict with this Act are repealed.